

Approved February 10, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by SENATOR JOSEPH C. HARDER at
Chairperson

1:30 ~~xxx~~ p.m. on Thursday, February 5, 1987 in room 254-E of the Capitol.

All members were present except:

Senator Jim Allen, excused
Senator Don Montgomery, excused

Committee staff present:

Mr. Ben Barrett, Legislative Research Department
Ms. Avis Swartzman, Legislative Revisor's Office
Mrs. Millie Randell, Secretary

Conferees appearing before the committee:

SB 80 - Concerning professional negotiation between boards of education and professional employees thereof; relating to the conduct of elections (Education)

Proponents:

Mr. Craig Grant, Director of Political Action, Kansas-National Education Association
Ms. Zenobia Washington, President, Wichita-National Education Association

Opponents:

Mr. James E. Copple, Legislative Director, Wichita Federation of Teachers
Mr. Jerry Powell, Labor and Employment Standards Administrator, Department of Human Resources
Mr. Richard Funk, Assistant Executive Director, Kansas Association of School Boards

SB 81 - Concerning school districts; relating to supplemental contracts (Education)

Proponents:

Mr. Richard Funk, Assistant Executive Director, Kansas Association of School Boards
Mr. Gerald Henderson, Executive Director, United School Administrators

Opponents:

Mr. James E. Copple, Legislative Director, Wichita Federation of Teachers
Mr. Craig Grant, Director of Political Action, Kansas-National Education Association

Mr. Jerry Powell, Labor and Employment Standards Administrator, Department of Human Resources

After Chairman Joseph C. Harder called the meeting to order, Senator Arasmith moved that minutes of the meeting of February 3 be approved. Senator Karr seconded the motion, and the motion carried.

SB 80 - Mr. Craig Grant, Kansas-NEA, when recognized by the Chairman, testified that his organization supports SB 80, because it would guarantee the continuation of a high voter turnout in all representation elections and because voting in every building is the least disruptive method of conducting a representative election. (Attachment 1)

Ms. Zenobia Washington, representing Wichita-NEA, said her organization, too, supports SB 80, and she reaffirmed the reasons given by Mr. Grant in his testimony. Also, she said, the bill will establish guidelines for the Department of Human Resources that will remove its representatives from any future disagreements between organizations involved. (Attachment 2)

Mr. James E. Copple, Wichita Federation of Teachers, in opposing SB 80, maintained that SB 80 would create more problems than it could ever solve and explained his reasoning in testimony found in Attachment 3.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION,

room 254-E, Statehouse, at 1:30 ~~xxx~~ p.m. on Thursday, February 5, 19 87

Mr. Jerry Powell, Department of Human Resources, offered testimony as to why he considers himself to be a mild opponent of SB 80. He said that although he appreciates NEA's attempt to make teacher elections on the duty site of employment statutory, he felt that it was important for the Department of Human Resources to maintain the flexibility it now has for tailoring election procedures according to the uniqueness of each school district and the parties involved. Mr. Powell requested that the Committee report SB 80 adversely in his testimony found in Attachment 4.

When Mr. Richard Funk, KASB, testified against SB 80, he requested that the Committee delete, on lines 0034-0036, the sentence which allows professional employees to vote in a union election during their duty day, whether they are assigned to a class or whether they have a "free period". Attachment 5

SB 81 - Mr. Richard Funk, KASB, in support of SB 81, urged the Committee to examine the issue of supplemental contracts on five levels in his testimony found in Attachment 6. He stated that SB 81 would allow local boards to have greater flexibility in dealing with the assignment of supplemental duties.

Mr. Gerald Henderson, U.S.A., testified that SB 81 is needed, because it clarifies what is meant by the terms "primary" and "supplemental" contract and said that Kansas administrators believe that duties necessary to the educational program of schools and which are performed during the duty day and duty year ought to be covered by the "primary" contract of employment. (Attachment 7)

Changes in current law that would bring existing supplemental duties under the definition of primary contract will only add to the difficulty of attracting quality teachers to the state Mr. James E. Copple, Wichita Federation of Teachers, maintained in his testimony opposing SB 81 (Attachment 8)

Mr. Craig Grant, K-NEA, in expressing opposition to SB 81, stated that his organization opposes the concept of a board of education being able to nonrenew a teacher's contract if that person refuses to accept a contract for duties which are supplemental in nature. He explained that Rule 10 of the Kansas State High School Activities Association, Inc. has been adequately modified to meet the needs of districts. (Attachment 9)

Mr. Jerry Powell, Department of Human Resources, stated that his Department has taken no position as a proponent or opponent of SB 81 but that he had some concern regarding the amendments on page 3, lines 0112 through 0119, and felt that these amendments might not only impact the parties concerned but, also, have a fiscal impact on the Department of Human Resources. (Attachment 10)

Following Mr. Powell's testimony, the Chairman said that SB's 80 and 81 would be taken under advisement, and he adjourned the meeting.

SENATE EDUCATION COMMITTEE

Thursday,

TIME: 1:30 p.m. PLACE: 254-E DATE: February 5, 1987

GUEST LIST

NAME	ADDRESS	ORGANIZATION
Kay Collins	Topoka	K-NEA
Stephia Washington	Wichita	NEA-Wichita
Gerald Anderson	Topoka	USA
Nancy Kelley	Emporia	K-NEA
Craig Grant	Topoka	H-NEA
Kari Lunk	Jopoka	USD #232
Richard Lunk	Topoka	KASB
Frank L. Key	Langdon	USD 310
Anna Purcell	Jopoka	USD 501 #
Ben Roagg	Parla	SDE
Loni Schug	Lawrence	Senator Vander
Kubyn Dysart	Wichita	Wichita Public School
KEUZW WICKLITE	LAWRENCE	Senator Mulick
HAROLA PITTS	Topoka	
Jerry Powell	Jopoka	D.H.R
Bob Wunsch		Jug
Helen Stephens	Jopoka	HEKS.

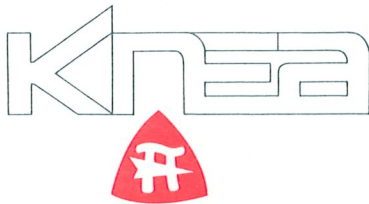
SENATE EDUCATION COMMITTEE

TIME: 1:30 p.m. PLACE: 254-E DATE: Thursday, February 5, 1987

GUEST LIST

<u>NAME</u>	<u>ADDRESS</u>	<u>ORGANIZATION</u>
Mike M ^c Guei	Topeka, Ks	K-NEA
Reubi N. Krummholz	Topeka	Rep Krumholz (District)
BRUCE GOEDEN	TOPEKA	KANSAS-NEA
Jim Cople	Wichita	WFT
Maion Deal	Wichita	WFT
Myrlene Kelley	Wichita	AFT
Bikela Highfile Scott	Topeka	USA
Almeda Edwards	Ottawa	Bd of Ed - USD 290
Jim Yonally	Shawnee Mission	USD # 512

Craig Grant Testimony Before The
Senate Education Committee
February 5, 1987



Thank you, Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate this chance to visit with you about SB 80.

First I would thank the committee for introducing this bill. Kansas-NEA believes that this bill would guarantee the continuation of a high voter turnout in all representation elections. The method described in SB 80 is the one that has been utilized by the Department of Human Resources since it began conducting elections under the negotiations act. There has been over 90% participation in all recognition elections with this method in use.

There was serious talk in the recent representation election in Wichita about holding the election in two or three sites; thus, we believe, cutting significantly the number of teachers who would have voted. Our position prevailed, and the election was efficiently held in two days and, again, over 90% of the teachers voted.

Kansas-NEA believes that voting in every building is the least disruptive method of conducting a representative election; we believe that it will cause the greatest percentage of votes cast; and we believe that it really will allow all the teachers to decide which agent they want to represent them. K-NEA is willing to abide by the will of the majority, but believes that all should have an equal opportunity to cast a ballot. SB 80 answers our concerns and we ask that you report the bill favorably.

Thank you for listening to our concerns.

Senate Education, 2/5/87
Attachment 1



Testimony of Zenobia Washington, President, NEA-Wichita
Before the Senate Education Committee, February 5, 1987

Thank you Mr. Chairman. Members of the committee, my name is Zenobia Washington and I am president of NEA-Wichita. I appreciate the opportunity to speak with you in support of SB 80.

NEA-Wichita is the bargaining agent for all Wichita teachers. We have held this position since teachers in Wichita began negotiating contracts with the school board nearly 20 years ago.

In 1979, 1980, 1984, and 1986, NEA-Wichita was challenged to a bargaining election by the Wichita Federation of Teachers/AFL-CIO. Each time, NEA-Wichita prevailed as the choice of teachers to represent them during negotiations.

On each occasion, the bargaining election has been conducted by the Department of Human Resources. For each election, the Department has set up polling places in each school building in Wichita. Administrators have watched classes for the few minutes it takes a teacher to vote. The reasons for this procedure have been twofold; first, to provide the maximum opportunity for teachers to vote and second, to conduct the election in a manner least disruptive to the educational process.

Our experiences have shown that these goals have been met. More than 95% of Wichita teachers have voted in each election and the process of voting in each building has been the least disruptive to our students. NEA figures show that these kinds of elections held outside the schools reduce turnout to about 70%.

Attachment 2

SB 80 will codify the practice of the Department of Human Resources and, we believe, will remove any potential conflict over how the elections should be conducted.

I would like to note at this time that part of the reason for this legislation stems from the 1986 bargaining election. When the Department of Human Resources met with us, WFT representatives and USD 259 administration representatives prior to the 1986 bargaining election, it was suggested that this bargaining election should not be held in every building.

NEA-Wichita supported the establishment of polling places in each building; however, the WFT/AFL-CIO said it could support polling in 3 or 4 "neutral" locations such as hotel ballrooms.

This disagreement put the Department of Human Resources in the middle of a problem that need not have occurred. Had both sides been able to agree on where the elections should have been conducted, the Department of Human Resources representative would not have been placed in such a difficult situation.

When the decision was made on the method to be used in conducting the voting, the Department followed its past practice and set up polling places in each building. In two days, the voting was completed and the votes could be counted.

SB 80 will continue to ensure that representation elections are conducted in each school building to provide the greatest opportunity for teachers to vote, will continue to ensure that these elections are not disruptive to our students and the educational process, and will establish guidelines for the Department of Human Resources that will remove its representatives from any future disagreements between the organizations involved.

We thank you for your consideration of SB 80 and we encourage you to report it favorably for passage. I would be happy to answer any questions.

WICHITA FEDERATION OF TEACHERS

TESTIMONY IN OPPOSITION TO SENATE BILL NO. 80

Senate Bill No. 80 will create more problems than it could ever solve. Holding Collective Bargaining (CB) elections on the duty site of employment, would on the surface, appear to increase voter turn out and convenience teachers choosing to participate in a given election. These arguments are difficult to quantify. CB elections are generally held at a central location within a district. It may be on a school site, but it is held in a neutral environment. This approach to CB elections continues to yield high voter turn out and teachers appreciate the freedom to vote without the threat of intimidation or harassment. Neutral site elections have been the pattern since collective bargaining was introduced into the teaching profession. The teaching profession established neutral site elections because they learned from the struggle of the American Labor movement. The labor movement discovered that duty site elections could lead to intimidation by management and disrupt the work place. Nothing has changed to eliminate those two potential threats to a fair and impartial election. Passage of Senate Bill No. 80 would be a giant step backwards in guaranteeing fair and impartial CB elections. This Bill fails to address a number issues already resolved by the Department of Human Resources and K.S.A. 72-5419.

1. Local Autonomy and Third Party Evaluation Currently K.S.A. 72-5419 permits the Department of Human Resources to evaluate each petition for an election and determine what would best serve the

WICHITA FEDERATION OF TEACHERS

interest of a fair and impartial election. In some situations it may be more appropriate to hold an election at a neutral site removed from the schools; in another case, it might be more appropriate to hold certified mail ballots. Senate Bill No. 80 removes that discretionary power from the Department of Human Resources. In some districts, duty site elections could be very unfair for incumbant and challenger alike. If neither party likes the determination of the Department of Human Resources, they have appeal procedures within the department. If not satisfied with the appeal, they can petition the court.

2. Senate Bill No. 80 Increases the Potential for Harassment and Hazing. A teacher, whose choice of organizational representation places them in a minority situation within a school, could experience hazing and undo pressure while voting at the duty site. That hazing could possibly come from the majority organization within that school or in some cases, from the administration. In the past election in Wichita, these problems were present in varying degrees. The Wichita Federation of Teachers has filed with the Department of Human Resources a number of these abuses. Most of the abuses were situations that the Department of Human resources could not immediately correct. Because of the abuses, however, the Department of Human Resources under current law has the flexibility to place the elections at neutral sites.

3. Cost Senate Bill No. 80 is cost ineffective. Staff demands for duty site elections would be enormous. Staff, transportation, room

WICHITA FEDERATION OF TEACHERS

and board for members of the Department of Human Resources would increase significantly. With the potential for more CB elections within the State of Kansas, the Department of Human Resources should not be limited to the costly procedures required for conducting duty site elections.

4. Disruption of the Work Place In some situations, duty site elections disrupt the work environment of a school. CB campaigns are intense and time consuming. Some schools do not have an appropriate location to place a voting box. In some situations, requiring an election to be held at the duty site, would not be in the best interest of students, faculty or administration. Arranging for release time to vote can be partial and disruptive to the classroom.

The above reasons are only several reasons why K.S.A. 72-5419 should not be changed. Requiring voting to take place at the duty site, will in the final analysis, place some teachers at risk and place undo strain on the notion of a fair and impartial election.

We urge the defeat of Senate Bill No. 80.

Respectfully submitted,

James E. Copple
Director of Legislation

Mr. Chairman and Members of the Committee;

My name is Jerry Powell, my title is Labor and Employment Standards Administrator within the Department of Human Resources, and I am appearing today on behalf of the Department of Human Resources. I appreciate the opportunity to visit with the committee about Senate Bill 80 and to share my concerns about the bill.

As some of you may know I have been involved in conducting teacher elections since that provision was amended into the Professional Negotiations Act. I have either personally conducted every election or have been involved in establishing election rules for all elections. In addition I have been personally involved in establishing election rules for all elections conducted for city, county, and state employees under the provisions of the Public Employer-Employee Relations Act.

In all of these elections, literally hundreds of elections, we have never had our election procedures or the conduct of an election challenged in court. To the best of my memory we have only had one election challenged to the Public Employee Relations Board or the Secretary of Human Resources. In that case the union complained of unfair actions by management which they alleged effected the outcome of the election.

Before one considers the merit of this bill, I believe it is important to fully understand the purposes for which we conduct teacher elections, the size of various appropriate bargaining units, and the number of duty centers in various school districts. All of these factors plus the desires of the parties are considerations when determining the election rules.

There are bargaining units within school districts which range in size from 13 teachers to 3,000 teachers. The number of duty centers range from one to 116. We conduct elections to determine whether a union will represent employees in a bargaining unit, whether a union will be removed as the representative of employees or whether one union will replace another union as the representative of employees in an appropriate bargaining unit. The "types" of elections we conduct are; 1) on site including all duty centers; 2) on site utilizing one or more duty centers; 3) neutral site with set hours for polling; 4) mail-back ballot elections. There are also other numerous election rules which are specifically set out prior to the election. Such rules include; 1) open polling times and areas; 2) provisions for absentee ballots; 3) provisions for obtaining votes from those who might be sick on election day; 4) provisions for challenge ballots, and other incidental provisions.

It has always been our practice to discuss election procedures with the parties involved in an attempt to arrive at agreed upon procedures. I am happy to report that in approximately 95% of the elections all parties have agreed upon the procedures. The goal is, of course, to provide an opportunity for all teachers to vote with the least possible disruption to teaching schedules. I am also happy to report that approximately 98% of all teachers have voted in all elections we have conducted.

I am confident that we are meeting the legislative intent of teacher representation elections without objections from the parties. We are able to accomplish this objective because we are able to tailor election procedures to the uniqueness of each school district and the parties involved.

Senate Bill 80 will remove from the Secretary the ability to tailor all election procedures. Further in a time when revenue is short we will, with the passage of this bill, be unable to limit the number of election sites or conduct a mail-back ballot election. Certainly there are times when one of the above listed elections might prove to be the most effective and efficient election, however under this bill we would be required to conduct an on site all duty center election which would only cost the taxpayers of the state additional funds.

I would be standing here today asking this committee to assist me legislatively in resolving problems if "problems" had been encountered with our elections, teachers had not had an opportunity to vote, or 90-100% of the teachers had not, in all cases, voted at elections. However, the converse of the above has occurred and I truly believe these things have occurred because we were able to tailor our elections to meet the needs of the districts and the teachers.

I'm sure that all of you are aware of that old saying, "If it ain't broke don't fix it". It seems to me that this saying is appropriate for the situation at hand. I respectfully request that this bill be reported adversely.

Thank you for the opportunity to speak on this bill. I will be happy to respond to any questions.



TESTIMONY ON S.B. 80

by

Richard Funk, Assistant Executive Director
Kansas Association of School Boards

February 4, 1987

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on behalf of the 302 members of the Kansas Association of School Boards. KASB sees the provisions outlined in S.B. 80 as generally not involving the operation of the unified school districts in Kansas. There is, however, one exception. In lines 034 to 036 it states: "Professional employees shall be afforded an opportunity to vote during any duty days upon which the election is held."

We are opposed to this provision becoming part of Kansas statutes. We do not believe that professional employees should vote in a union election during their duty day, whether they are assigned to a class or whether they have a "free period." Such a procedure would be difficult to administer and the electioneering occurring during the school day would be inappropriate in a school setting.

KASB asks this committee to delete the sentence from this bill found on lines 0034-0036. Thank you for your consideration of our request.

SENATE BILL No. 80

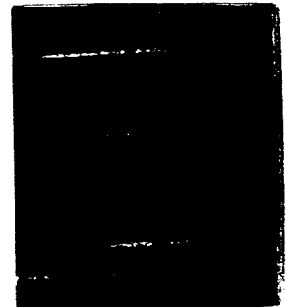
By Committee on Education

1-26

0017 AN ACT concerning professional negotiation between boards of
0018 education and professional employees thereof; relating to the
0019 conduct of elections for determination of questions involving
0020 designation of a professional employees' organization;
0021 amending K.S.A. 72-5419 and repealing the existing section.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 72-5419 is hereby amended to read as fol-
0024 lows: 72-5419. If the secretary does not dismiss a petition filed
0025 under K.S.A. 72-5417, *and amendments thereto*, and determines
0026 that it is necessary to direct and conduct a secret ballot election
0027 in order to resolve the questions raised by the petition, the
0028 secretary shall order the election held and shall determine the
0029 eligibility of professional employees to vote at the election. A
0030 voting place shall be located in each duty center to which at
0031 least two professional employees are assigned. Whenever a duty
0032 center has only one professional employee assigned thereto, the
0033 secretary shall designate a voting place for the professional
0034 employee. *Professional employees shall be afforded an oppor-*
0035 *tunity to vote during any of the duty days upon which the*
0036 *election is held.* The secretary shall base ~~his or her~~ a determina-
0037 tion of the questions raised by the petition upon the result
0038 favored by the majority of the professional employees who vote
0039 at the election if at least a majority of the eligible professional
0040 employees vote. If less than a majority of the eligible profes-
0041 sional employees vote at any election conducted under this
0042 section, the status of the professional employees with regard to
0043 representation prior to the election is maintained. The name of a
0044 professional employees' organization shall not appear on the
0045 ballot unless (a) the professional employees' organization has



DELETE



TESTIMONY ON S.B. 81

by

Richard Funk, Assistant Executive Director
Kansas Association of School Boards

February 2, 1987

Mr. Chairman and members of the committee, we appreciate the opportunity to testify today on behalf of the 302 members of the Kansas Association of School Boards. KASB supports the provisions found in S.B. 81. As you are aware, the issue of supplemental contracts has been around for the past four years.

One has to examine the issue of supplemental contracts on 5 levels.

Level 1: Employees new to the district

Level 2: Employees under contract to the district

Level 3: Employee responsibilities that are part of their overall duties, i.e., student supervision - recess, hall monitoring

Level 4: Employees duties that are an extension of the curriculum, i.e., debate, vocal music, speech and drama

Level 5: Employee duties that are not an extension of the curriculum, i.e., head or assistant coaches

The provisions found in S.B. 81 are sound and represent a compromise of different philosophies. This is not a bill where the local school board is the only "winner." School employees are also afforded benefits, such as due process procedures under the new definition of primary contract. Local boards will have greater flexibility in dealing with assignment of supplemental duties.

Senate Bill 81 is designed to insure that teachers and boards of education have the ability to enter into employment contracts which cover any duties to which the parties agree. Since the decision of the Kansas Court of Appeals in 1984 in the case of Swager vs. USD 412, there has been confusion as to what duties are part of a primary contract of employment and what duties must, by law, be included in a supplemental contract.

Section (1) of Senate Bill 81 clarifies that any duties occurring during the duty day and year are part of the primary contract of employment. These would include supervision of students before and after school, during the lunch hour and between classes. This section also would allow the employer and employee to mutually agree to make duties such as coaching, activity sponsorship, music, drama, FFA, FHA, and others, part of the primary contract. For example: If a teacher is initially hired to teach music and conduct the school band, these duties could all be included in the primary contract of employment.

On the other hand, if a teacher has not previously agreed to be the cheerleader sponsor, he or she could not be required to take this assignment as a condition of employment. The parties could continue to enter into a supplemental contract.

Enactment of Senate Bill 81 would not change the court's decision that a board cannot condition an existing teaching contract on acceptance of supplemental duties. It will provide that a teacher may agree to accept duties outside the primary contract. Protection for teachers is included in the bill, in that once such duties are made a part of the primary contract, the teacher would be entitled to the protection of the Teacher Due Process Act and the Continuing Contract Law. Section (2)(d) insures that the questions of duty day, duty year, duty free lunch, planning time, etc., are still subject to the Professional Negotiations Act.

It is our belief that Senate Bill 81 addresses the concerns of school boards and administrators in being able to assure supervision of students during the school day and during school activities. It also protects teacher employees from arbitrary action and from being forced to coach or supervise unless they have agreed to do so.

We do propose one change to S.B. 81. Line 0027 should read "0027 year, or duties which are necessary to the educational pro_____." This change would not be as limiting as the original language defining "primary contract."

We request that you recommend Senate Bill 81 for passage.

SENATE BILL No. 81

By Committee on Education

1-26

0017 AN ACT concerning school districts; relating to contracts of
0018 employment between boards of education and certain em-
0019 ployees thereof; amending K.S.A. 72-5412a and 72-5413, and
0020 repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 72-5412a is hereby amended to read as
0023 follows: 72-5412a. (a) *As used in this section:*

0024 (1) "Primary contract" means a contract of employment
0025 between a board of education and an employee for the per-
0026 formance of all duties which occur during the duty day and duty
0027 year, and which duties are necessary to the educational pro-
0028 gram. A primary contract may include, upon mutual agreement
0029 of the employee and the board of education, the performance of
0030 duties which are outside the duty day and duty year.

0031 (2) "Supplemental contract" means a contract of employ-
0032 ment, which is separate and distinct from a primary contract,
0033 and which is for the performance of duties which are incidental
0034 and additional to the duties under the primary contract, and
0035 which are outside the regular duty day and duty year, and
0036 which are not directly related to the curricular program.

0037 (b) The board of education of any school district may enter
0038 into a supplemental contract of employment with any employee
0039 of the district. As used in this section "supplemental contract"
0040 means a contract for services other than those services covered in
0041 the principal or primary contract of employment of such em-
0042 ployee, and shall include but not be limited to such services as
0043 coaching, supervising, directing and assisting extra curricular
0044 activities, chaperoning, ticket taking, lunch room supervision
0045 and other similar and related activities.

A'END
year, or duties which



SB 81

Testimony presented before the Senate Education Committee
By Gerald W. Henderson, Executive Director
United School Administrators of Kansas

February 5, 1987

Mister Chairman and members of the committee. United School Administrators of Kansas is grateful for the opportunity to speak in support of SB 81. The language in this bill is needed to clarify what is meant by the terms "Primary" and "Supplemental" contract.

Kansas administrators believe that duties necessary to the educational program of schools and which are performed during the duty day and duty year ought to be covered by the "Primary" contract of employment.

Also, those duties performed outside the duty day and duty year which are directly related to the curricular program of the school i.e. debate coach, play director, and band director, ought to be considered as part of the "Primary" contract.

I cannot document an overwhelming problem in either of these two areas, but incidents have occurred which have been or will be mentioned by conferees with greater research capabilities than USA. I submit, however, that if one school is unable to produce plays because a drama teacher wishes only to be involved in classroom instruction, then a significant problem is presented to students in that school.

GWH/ed

Senate Education
2/5/87
Attachment 7

WICHITA FEDERATION OF TEACHERS

Testimony in Opposition to Senate Bill No. 81

James E. Copple
Legislative Director
Wichita Federation of Teachers

With each passing year, the issue of linking supplemental duties, as currently defined by K.S.A. 72-5412, to a primary contract becomes more untenable. It is true that School Boards and Administrators face difficult problems related to filling supplemental duty assignments. It is also true, however, that School Boards and Administrators are placing increased pressure on teachers to give greater attention to time on task within the classroom. That is an emphasis that the teachers within the newly organized Kansas Federation of Teachers are willing to embrace. However, class sizes continue to increase and new graduation requirements demand greater attention to the content areas. This, coupled with the difficulty of attracting quality students into the teaching profession, make this Bill unrealistic in its expectations. Teachers must be assured that their primary mission of education is protected by a contract that allows them to fulfill the primary responsibility of classroom instruction. The fact is, many teachers, at various stages in their careers, choose to give time and attention to the primary mission of classroom instruction. When they make that decision, while it may impact supplemental duty needs, we must not penalize them.

No one would deny the importance of the items currently defined as supplemental. By making those items-items to be negotiated under the definition of primary contract, places undo strain upon the classroom commitment of the teacher.

Changes in the current law that would bring existing supplemental duties under the definition of primary contract will only add to the difficulty of attracting quality teachers to the state. Kansas will not be immune to the teacher shortages that our nation will face in the next four to six years. According to one Metropolitan

Life survey, 27% of first year teachers in Kansas will leave the profession after the first year of teaching. Linking current supplemental duties to the primary contract will only make the situation worse.

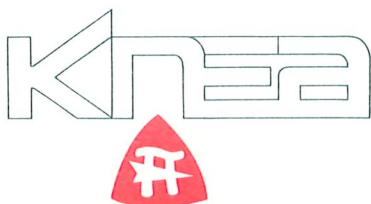
Senate Bill No. 81 is backward looking and will not adequately address issues which make the job of teaching truly a profession. Rather, a favorable reading of Senate Bill No. 81 will place the teacher in the unenviable position of deciding whether or not ticket taking or lunch room supervision is part of their primary mission as an instructor. These and the items listed under the current statute should be negotiated separately.

While Senate Bill NO. 81 has many positive and new features, as compared to its predecessors, the Bill still does not read favorably for teachers.

Respectfully submitted,

James E. Copple
Legislative Director
Wichita Federation of Teachers

Craig Grant Testimony Before The
Senate Education Committee
February 5, 1987



Thank you Mr. Chairman. Members of the Committee, my name is Craig Grant and I represent Kansas-NEA. I appreciate this chance to visit with the committee on SB 81.

Supplemental Contracts - we have heard it before and I guess we will hear it again. The issue is written a little differently each time, the testimony changes slightly each time, but the fundamental issue is the same--Kansas-NEA opposes the concept of a board of education being able to nonrenew a teacher's teaching contract if that person refuses to accept a contract for duties which are supplemental in nature.

There has been no evidence in the past--even when the districts were surveyed in an interim study--or in the present which justifies a change in the public policy toward this issue. Rule 10 of the Kansas High School Activities Association has been adequately modified to meet the needs of districts. A particular situation may make an administrator work a little harder to find a ticket taker or pep club sponsor, but districts have not been forced to do away with activities. In fact, many are increasing supplemental activities in the schools.

As I indicated, much has been said and very little new evidence provided about this topic. I was chastised for calling the bill involuntary service two years ago in the House Education Committee. The bill as it is now phrased would more appropriately be called indentured service. It is not unlikely that a probationary teacher--one who can be

Senate Education, 2/5/87
Attachment 9

and often is nonrenewed by boards for no reason--would be pressured to tie the supplemental duties to the primary contract in order to keep his or her job. As the indentured servant from Europe, who signed a contract for passage to the New World in exchange for working for the plantation owner, found out when he got to America that contract basically committed him to lifetime service for the owner. Once that teacher tied the supplemental duties to the primary contract, that teacher would be forced to continue those duties as long as that teacher was teaching in that district. It is that teaching of math, or science, or English, or foreign language, or any other of the disciplines, that we believe should be of utmost consideration in our mind.

Kansas-NEA opposes SB 81 and hopes that this committee agrees with us that there is no demonstrated need for changing the law. Thank you for listening to our concerns.

Mr. Chairman and Members of the Committee;

Senate Bill 81 apparently attempts to draw a greater distinction between "primary" and "supplemental" contracts. This amendment will no doubt impact the parties to the professional negotiations process. I am however neither qualified to speak on this issue nor is the Department of Human Resources impacted by this amendment. We therefore take no position as an opponent or proponent on this amendment.

I do wish to point out to the committee two amendments which will not only impact the parties but will also have a fiscal impact on the Department of Human Resources. Further I am certain that both the Kansas National Education Association and the Kansas Association of School Boards will not favor the amendments about which I wish to speak.

Those amendments are found at page 3 line 0112 through line 0119 and relate to the definition of "fact-finding". I am confident that Kansas courts will interpret this amendment to disallow the use of individual fact-finders in future impasse cases. Therefore we will be forced to appoint three member boards at triple the cost to the parties. I have been informed by both parties to the negotiations process that they do not desire to use a three person board. I have, in fact, received only one request for the appointment of three fact-finders in the past two years.

While the appointment of a three member board will have no impact on the Department of Human Resources, I believe the parties will state their opposition. We have no objection to this amendment but simply point it out to insure that everyone realizes that the cost of fact-finding will increase dramatically if this provision becomes law.

I do have a problem with the amendment on lines 0116 and 0117 of page 3. That change will remove the fact-finder's authority to "determine" the issues involved in an impasse and limit the fact-finder to "describing" the issues involved. It is not at all unusual for the parties at impasse to disagree over the issues at impasse thus making it necessary for someone to "determine" what must be addressed in a fact-finding hearing. It has been my job to resolve questions of negotiability and the fact-finders job to rule on other questions concerning proper issues at impasse.

It is not clear in the bill, as written as to what the proper authority might be to make such rulings if the fact-finder is relieved of that responsibility. I can but assume that either the Secretary or district court would need to become involved if this provision becomes law. In either event the process would be delayed and costs for the parties would be incurred. If the Secretary is required to start making these types of rulings a cost will be incurred by the Department of Human Resources.

I am not aware that the fact-finders authority or ability to make these determinations has caused harm or even concern to the parties. If either has occurred no one has called the problem to my attention. If this has caused a problem the simple solution would be to draw some clear rules on making these determinations and to provide training to fact-finders in this area. I assure you Mr. Chairman and members of this committee that I will, at little expense, provide any training necessary if I am made aware of specific problems.

Once again I feel I must state that the Department of Human Resources does not oppose or favor this bill. However we are concerned with the two amendments to the definition of fact-finding. I truly believe these two changes will work an unnecessary hardship on all parties and will cause unnecessary expenditures by all parties.

Thank you for allowing me this time and I stand ready to answer any questions.